

III. REMARKS

This document is being submitted in response to the non-final Office Action mailed to the Applicants by the Patent Office on April 9, 2007. In the present application, claims 1-20 are pending and claims 1-20 stand as rejected by the Patent Office. In this Response, claims 1, 11-18, and 20 have been cancelled without prejudice and claims 2-10 and 19 have been amended to better define that which the Applicants regard as their invention. The amended claims are supported by the specification as originally filed and no new matter has been added to the present patent application. Support for amended claim 10 is found on pages 6-9 of the specification as well as in FIGS. 3-5. The Applicant respectfully requests reconsideration of the claims in light of the amendments and remarks made herein.

35 U.S.C. § 102(b)/(e); 35 U.S.C. § 103(a); and Allowable Subject Matter

On page 3 of the present Office Action, the Patent Office states that claims 1, 7, and 8 are rejected under 35 U.S.C. § 102(e) as being anticipated by Huang (US 2004/0144819), and on page 4 of the Office Action, the Patent Office states that claims 10-28 and 20 are rejected under 35 U.S.C. § 102(b) as being anticipated by Hsu (US 6,200,973). On page 6 of the present Office Action, the Patent Office states that claims 2-5 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Huang in view of Flynn (US 6,125,081) and that claim 9 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Huang in view of Kennedy (US 5,393,052). On page 7 of the Office Action, the Patent Office states that claim 19 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Hsu in view of Kennedy. Finally, on page 7 of the Office Action, the Patent Office states that claim 6 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 1, 11-18, and 20 have been cancelled, thereby rendering moot any further discussion thereof under Sections 102 and 103 of the patent statute. Claim 6 has been amended in accordance with the indication of allowable subject matter and is considered to be in condition

for allowance. Claims 2-5 and 7-9 have been amended to depend, either directly or indirectly, from amended claim 6 and because these claims now depend from an allowable independent claim, the Applicants believe that claims 2-5 and 7-9 are also in condition for allowance.

Claim 10 has been amended to include limitations that are not taught by Hsu or any of the other references cited by the Patent Office or provided to the Patent Office by the Applicant. More specifically, the cup portion of the body (including the clasps and the stencil) is not taught by Hsu, and the horns and retaining ridges of the divot repair device are not taught by Hsu. Unlike the device taught by Hsu, the entire ball marker of the Applicants' invention (not just a portion thereof), snaps into the upper portion of the divot repair device where it is stored until needed. Thus, because amended claim 10 includes numerous limitations not taught by Hsu, the Applicants assert that Hsu does not anticipate this claim. Amended claim 19 depends directly from amended claim 10 and, therefore, is also believed to define patentably over the prior art.

Conclusion

In light of the amendments made to the claims and the arguments presented above, the Applicants assert that the claims pending in this application define patentably over the art cited by the Patent Office and over the prior art in general. Thus, this application is believed to be in condition for allowance and favorable reconsideration is respectfully requested.

Respectfully submitted,

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